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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,497	07/19/2001	John W. Evans	290397.0007	9692

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EXAMINER

HAMLIN, DERRICK G

ART UNIT PAPER NUMBER

1751

DATE MAILED: 10/24/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/910,497

Applicant(s)

EVANS ET AL.

Examiner

Derrick G. Hamlin

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 and 40-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 and 40-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                            | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____   |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)        | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ | 6) <input type="checkbox"/> Other:  |

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## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. The rejection of claims 1-29 and 40-50 under 35 U.S.C. 103(a) as being unpatentable over Maes et al. (US 5366651) is withdrawn in view of the applicants arguments.
2. Claims 1-29 and 40-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood (US 4455248).

Wood discloses a corrosion inhibitor combination is useful in antifreeze formulations based on glycols, which, of course, impart to aqueous solutions the desired freezing point depression and boiling point elevation. Glycols suitable for purposes of the invention generally include those commonly applied in conventional antifreeze compositions and specifically include the lower alkylene glycols, such as propylene and ethylene glycols, which are also most preferred. Mixtures of such glycols are equally suitable. The composition of the invention optionally contains water. For reasons relating to convenience in handling and storage, the antifreeze may be formulated as a concentrate containing little or no water. (col. 2, line 56—col. 3, line 13) Corrosion protection is provided by certain silicate, phosphate, borate, nitrate, azole, and alkali compounds in specified proportions. (abstract)

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The reference fails to teach that the composition is used to reduce the toxicity of a heat transfer fluid.

Although the reference fails to teach that the composition is used to reduce the toxicity of a heat transfer fluid, the mere statement of a new use for an otherwise old or obvious composition cannot render the composition patentable, *In re Zeider*, 162 USPQ 102. Furthermore, the instantly claimed use or method of using the composition is not novel, as it is still being used as a heat transfer fluid in a cooling system of an internal combustion engine.

Therefore it would have been within the preview of the skilled artisan to create the instantly claimed heat transfer fluid, as Woods discloses a composition containing ethylene or propylene glycol or mixtures thereof and a corrosion inhibitor.

3. Claims 1-6, 14-16, 18, 21, 26-29, 40, 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell et al. (US 4,293,441).

Newell discloses corrosion inhibitor heat transfer liquids, such as aqueous ethylene glycol used as coolant in the cooling system of an internal combustion engine (abstract). The reference further teaches that the composition is useful as or in a heat transfer medium for a heat exchanger, such as the cooling system of an internal combustion engine, comprising (1) ethylene glycol, propylene glycol or mixtures thereof, including aqueous solutions thereof, and (2) as a corrosion inhibitor fluoroaliphatic radical-containing phosphonic acid or salt or hydrolyzable ester thereof (col. 1, lines 41-49). The reference further teaches that the use is at elevated temperatures, for

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example, at temperatures above 100 degrees C, little or no water need be added to the glycol/fluoroaliphaticphosphonic acid solution (col. 5, lines 60-66).

The reference fails to teach that the composition is used to reduce the toxicity of a heat transfer fluid.

Although the reference fails to teach that the composition is used to reduce the toxicity of a heat transfer fluid, the mere statement of a new use for an otherwise old or obvious composition cannot render the composition patentable, *In re Zeider*, 162 USPQ 102. Furthermore, the instantly claimed use or method of using the composition is not novel, as it is still being used as a heat transfer fluid in a cooling system of an internal combustion engine. Additionally, one would be motivated to not use water because a car engine is one such application where the temperature would rise above 100 degrees C.

Therefore it would have been within the preview of the skilled artisan to create the instantly claimed heat transfer fluid, as Newell discloses a composition containing ethylene or propylene glycol or mixtures thereof and a corrosion inhibitor.

In view of the forgoing, the above claims have failed to be patently distinguishable over prior art.

### ***Conclusion***

The remaining references listed on form(s) 892 and/or 1449 have been reviewed by the examiner and are considered to be cumulative to or less material than the prior art references relied upon in the rejection above.

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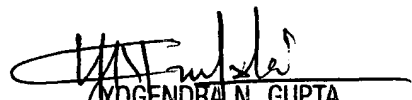
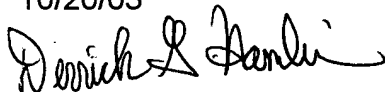
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derrick G. Hamlin whose telephone number is (703) 305-0590. The examiner can normally be reached on Monday-Thursday and alternating Fridays from 8:30 AM - 5:00 PM.

If reasonable attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for this Group is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Derrick G. Hamlin

10/20/03



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